

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
WASHINGTON, DC

AIM AEROSPACE SUMNER, INC.,)	
)	
Respondent)	
)	Case Nos. 19-CA-203455
And)	19-CA-203586
)	
INTERNATIONAL ASSOCIATION)	
OF MACHINISTS, DISTRICT 751,)	
)	
Charging Party)	

**RESPONDENT’S CROSS-EXCEPTIONS
TO ADMINISTRATIVE LAW JUDGE’S DECISION**

NOW COMES AIM Aerospace Sumner, Inc., Respondent or AIM herein, and files its cross-exceptions to Administrative Law Judge’s Decision,¹ as follows:

Respondent takes cross-exception to the ALJ’s:

1. Finding that “preponderant evidence proves Downs-Haynes was offered the receiving clerk position, with its attendant wage increase, as a reward for her circulation of the decertification petition,” on the grounds that this finding is not supported by the record evidence and is erroneous as a matter of law. (JD 18: 19-21).

2. Finding that “*Wright Line’s* reasoning is applicable here” and her reliance on *Miramar Hotel Corp.*, 336 NLRB 1203, 1211 (2001) as support for this finding, on the grounds that this finding is not supported by the record evidence and is erroneous as a matter of law. (JD 18: 24-27).

¹ References to the ALJ’s decision are designated as “JD” followed by the appropriate page and line number(s). Citations to the supporting record evidence and supporting legal argument are set forth in Respondent’s Brief in Support of Cross-Exceptions, which is being filed simultaneously with its Cross-Exceptions.

3. Finding that “the General Counsel has met the initial *Wright Line* burden,” on the grounds that this finding is not supported by the record evidence and is erroneous as a matter of law. (JD 18: 38-40).

4. Findings that Ruffcorn had not received Downs-Haynes’ application at the time the job was first offered to Taylor, and that the reason Downs-Haynes was not interviewed, or offered the job, initially was because “she had less experience than Taylor, and as of early June had not yet openly begun her activities in support of decertification,” on the grounds that these findings are not supported by the record evidence. (JD 19: 15-23).

5. Finding that the “circumstances do not add up” and “make sense” only if Respondent was seeking to award the position to Downs-Haynes, on the grounds that this finding is not supported by the record evidence and is erroneous as a matter of law. (JD 19: 25-32).

6. Finding that Respondent’s offered justifications for awarding the position to Downs-Haynes were “suspect,” and unworthy of credence, on the grounds that this finding is not supported by the record evidence and is erroneous as a matter of law. (JD 19: 34-43; 20: 1-2).

7. Finding that Respondent offered “conflicting reasons” for giving Downs-Haynes a pay increase, on the grounds that this finding is not supported by the record evidence and is erroneous as a matter of law. (JD 20: 4-7).

8. Finding that there are “too many irregularities” to find that Respondent had legitimate motives, on the grounds that this finding is not supported by the record evidence and is erroneous as a matter of law. (JD 20: 9-11).

9. Finding that the “preponderant evidence” established pretext, on the grounds that this finding is not supported by the record evidence and is erroneous as a matter of law. (JD 20: 11-14).

10. Finding that the General Counsel met his burden of proof to establish a violation, on the grounds that this finding is not supported by the record evidence and is erroneous as a matter of law. (JD 20: 13-14).

11. Failure to address Respondent's *Wright Line* defense and to find that Respondent carried its burden, on the grounds that the record evidence supports such a finding as a matter of law.

12. Conclusion of Law that "By promoting Lori-Ann Downs-Haynes, the Respondent has engaged in unfair labor practices affecting commerce within the meaning of Section 8(a)(1) and Section 2(6) and 2(7) of the Act," on the grounds that this Conclusion is not supported by the evidence and is erroneous as a matter of law." (JD 22: 30-33).

13. Remedy, on the grounds that no unfair labor practice was established. (JD 22: 38-46).

14. Order, on the grounds that no unfair labor practice was established. (JD 23: 4-50).

15. Notice to Employees, on the grounds that no unfair labor practice was established. (JD APPENDIX).

Respectfully submitted this 27th day of June 2018.

/s/ Charles P. Roberts III

CONSTANGY, BROOKS, SMITH & PROPHETE, LLP
100 North Cherry Street, Suite 300
Winston-Salem, NC 27101
336.721.6852 (T)
336.283.0380 (F)
croberts@constangy.com

W. Melvin Haas, III
CONSTANGY, BROOKS, SMITH & PROPHETE, LLP
577 Mulberry Street, Suite 710
Macon, GA 31201-8588
478.621.2426 (T)
478.787.0770 (F)
MHaas@constangy.com

CERTIFICATE OF SERVICE

I certify that this day, I served the foregoing CROSS-EXCEPTIONS on the following parties of record by electronic mail:

Ryan Connelly
Counsel for General Counsel
NLRB – Region 19
915 Second Avenue
Seattle, WA 98174
Ryan.connelly@nrlb.gov

Spencer Thal
IAM, District 751
9125 15th Place South
Seattle, WA 98108
SpencerT@iam751.org

Katelyn Sypher
Schwerin, Campbell, Barnard, Iglitzin & Lavitt, LLP
18 W Mercer Street, Suite 400
Seattle, WA 98119-3971
sypher@workerlaw.com

Dated this 27th day of June 2018.

/s/ Charles P. Roberts III